

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

KELLY L. WERTZ-BLACK, CHARLES H. BLACK, MICHAEL LEE WERTZ, PERSONAL  
REPRESENTATIVE OF THE ESTATE OF WALTER F. WERTZ, DECEASED;  
RICHARD WERTZ, TOM CALDER, AND BILL CURRY,

Respondents

v.

GUESA USA, LLC.

Appellant

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DOCKET NUMBER WD79103

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: March 7, 2017

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Appeal From:

Circuit Court of Pettis County, MO  
The Honorable James Kelso Journey, Judge

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Appellate Judges:

Division One  
James Edward Welsh, P.J., Anthony Rex Gabbert, and Edward R. Ardini, Jr., JJ.

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Attorneys:

Thomas Kempton, Sedalia, MO  
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Co-Counsel for Appellant  
Co-Counsel for Appellant

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Attorneys:

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Counsel for Respondents

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**KELLY L. WERTZ-BLACK, CHARLES H. BLACK, MICHAEL LEE WERTZ,  
PERSONAL REPRESENTATIVE OF THE ESTATE OF WALTER F. WERTZ,  
DECEASED, RICHARD WERTZ, TOM CALDER, AND BILL CURRY, Respondents,  
v. GUESA USA, LLC, Appellant**

**WD79103**

**Pettis County**

Before Division One Judges: Welsh, P.J., Gabbert, and Ardini, JJ.

Guesa USA, LLC, ("Guesa") appeals the circuit court's judgment awarding an adjacent property owner, the Wertz Family, three prescriptive easements on and over commercial property owned by Guesa. Guesa claims on appeal that there was insufficient evidence to support the declaration of the prescriptive easements.

**Affirmed.**

**Division One holds:**

The circuit court did not err in entering judgment in favor of the Wertz Family and declaring that they had three "non-exclusive easements" on and over the Guesa property. There was substantial evidence that the Wertz Family's use of Guesa's property for ingress and egress and for parking has been open, visible, continuous, uninterrupted, and adverse for a period of more than fifty years. The Wertz Family's "long and continuous use" of the property for decades created a presumption that the use was adverse, and Guesa failed to rebut that presumption.

Opinion by James Edward Welsh, Presiding Judge

March 7, 2017

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